

A BILL

To amend the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, and for other purposes.

EXPLANATION AND JUSTIFICATION

The purpose of the proposed bill is to bring the CIA retirement system into line with concepts applicable to other retirement systems and to clarify existing Agency authority in the field of premium compensation.

The specific provisions of the proposed bill together with related Central Intelligence Agency statutory provisions, if any, and explanatory notes, are set forth in the Appendix, "Sectional Analysis and Explanation."

No additional costs to the Government will result from enactment of Title I, the "Central Intelligence Agency Retirement Act Amendments of 1969," and Title II, "Miscellaneous," concerning exclusion from the Federal Employees Pay Act of 1945, as amended.

The following statements are cited to the appropriate section of the proposed bill.

TITLE I

Title I amends the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (78 Stat. 1043, 50 U.S.C. 403 note).

Short Title

Section 101 provides a short title for Title I.

Definition "Child"

Section 102 eliminates the requirement that a stepchild or recognized natural child be dependent upon a parent participant in order to receive a survivor annuity. The present definition of a stepchild or recognized natural child in the Act requires, among other things, that the child receive more than one-half his support from the participant to be eligible for a survivor annuity. This requirement could defeat a survivor annuity based on the service of a working mother. This support requirement was eliminated from the Civil Service Retirement Act by the 89th Congress (Sec. 502, P.L. 89-504).

Section 102 also raises from 21 to 22 the maximum age for receiving survivor annuity payments as a student and increases from four to five the maximum months absence from school which may be permitted without terminating the survivor annuity. This will aid survivor annuitant children enrolled in trisemester or other programs to secure employment and earn money to continue their education without losing their survivor annuity. A similar change was approved by the 89th Congress for student beneficiaries under the Civil Service Retirement Act (P.L. 89-407 and Sec. 502, P.L. 89-504).

Section 102 also permits a natural child of a deceased participant to share in the distribution of any money or deposit in the CIA Retirement and Disability Fund which belongs to the deceased participant. The Act clearly permits a natural child to receive a survivor annuity. It is not clear, however, with respect to lump-sum benefits. This provision will establish a uniform rule for both survivor annuities and lump-sum benefits and also avoid the possibility of litigation based upon varying state inheritance laws. A similar provision amending the Civil Service Retirement Act definition of child to include a natural child and an adopted child, but not a stepchild for this purpose was approved by the 89th Congress (P.L. 89-407).

#### Maximum Annuity

Section 103 increases from thirty-five to forty the number of years service that may be included in computing the annuity of an individual. This will permit payment of annuities up to the same ceiling that applies to Civil Service retirement annuities (5 U.S.C. 8339(e)). During the 90th Congress an identical change in the Foreign Service system was approved by the Senate (S. 2003), and was reported out by the House Foreign Affairs Committee (H.R. 16903). This provision for the benefit of the Foreign Service retirement system was introduced in the 91st Congress on 3 January 1969 as H.R. 77.

#### Widow's Annuity

Section 104 permits the annuity of a widow or a dependent widower to continue in the event of remarriage. This provision is similar to that applicable to survivor annuitants under the Foreign Service Act and is in keeping with the principle approved by the 89th Congress for survivor annuitants under the Civil Service Retirement Act (Sec. 506(a)-(b), P.L. 89-504).

#### Child's Annuity

Section 105 provides for the commencement and termination date for a child survivor annuity and assures that the survivor annuity of a student may be resumed even though it had previously been terminated, as for example, because of military service. Under existing authority, once an annuity had been terminated because of an absence between school terms in excess of the maximum absence authorized, the annuity could not be resumed. A similar technical amendment to the Civil Service Retirement Act was approved by the 89th Congress (Sec. 506(d), P.L. 89-504).

#### Annuity Commencement Date

Section 106 authorizes the effective date of an annuity to be the day following separation for retirement or following the occurrence of the event on which payment thereof is based. Existing authority (5 U.S.C. 8301) requires that an annuitant who is fully qualified to retire and receive an immediate annuity must wait until the beginning of the month following his date of separation from the service to be eligible for such annuity. This rule works a hardship on employees who are eligible to retire and who desire to retire earlier than the last day of the month. Section 106 also clarifies the termination dates

Deferred Annuity

Section 107 permits a participant who separates from the Agency with no less than five years of service to leave his contributions in the Fund and receive an annuity at age 60 rather than at age 62, as presently authorized. This provision is similar to that applicable to deferred annuities under the Foreign Service Act and is in keeping with the principle of the CIA Retirement Act for mandatory retirement at age 60 for participants receiving compensation at a rate less than grade GS-18.

Limitation on Number of Retirements

Creditable Service

Section 109 provides a participant who has prior creditable service not covered by retirement to either make a deposit to cover the service, or to have a reduction in the annuity attributable to such service by 10 percent of the deposit due. Under present authority deposit must be made to obtain creditable service. A similar provision is found under the Civil Service Retirement Act (5 U.S.C. 8339(h) and 5 U.S.C. 8334(c)).

### Transfer of Contributions

Section 110 provides for the transfer of the employer and employee contributions from the Civil Service retirement fund (or any other retirement fund) to the Agency retirement fund on transfer of an employee from another retirement system and will clarify the authority of the Civil Service Commission to so transfer the Government's contributions for all persons who have transferred under the authority of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, as well as for those who are in process or who may transfer to the Agency's system in the future.

This section also permits a transfer of the employer and employee contributions to the CIA retirement fund to some other Government retirement fund in the event the employee changes employment. This makes it possible for the contributions to be credited to the Government retirement fund from which the employee's retirement benefits will ultimately be paid. There is at present no provision for the transfer of the contributions from the CIA retirement fund to another Government retirement fund in the event he changes employment. In the absence of this authority, an individual wishing to obtain credit for his CIA service under another system must obtain a refund of his contributions with the interest thereon, pay tax on such interest, and then repurchase service credit on the basis of his contributions plus payment of the applicable interest rate under the retirement system which he has entered. This is inequitable and cumbersome.

### Reemployment of Annuitants

Section 111 authorizes an annuitant reemployed in the Government to retain the salary of the new position and so much of his annuity when added to the new salary as does not exceed the salary at the time of retirement. This provision relates to one of the basic problems of CIA for which it sought relief in the Central Intelligence Agency Retirement Act of 1964 for Certain Employees. It is imperative that CIA hold down the average age of the group of employees covered by the the Act.

The retirement program established under the Act permits voluntary retirement at a relatively early age. These retirees, however, with few exceptions will need to seek a second career and may well desire such a career elsewhere in Government. CIA employees do not acquire status in the competitive service, however, and much of their experience and competence cannot readily be related to normal Government positions. It is more probable, therefore, that the retired CIA employee will only be able to qualify initially for employment in the competitive service several grades below his terminal CIA position. Further, unlike a Civil Service retiree, his service in the competitive service does not authorize a recomputation of his retirement annuity upon separation. Only if he can retain at least a portion of his annuity will he be able to remain in Government service without a drastic lowering of his standard of living. The total offset of annuity upon reemployment in Government service, as required by the present Act, will tend to limit second-career employment opportunities for CIA retirees to the private sector. It will thus tend to deny to the Government the services of individuals who, even though they have completed their CIA careers, are highly competent.

Retirees under the CIA Retirement and Disability System have earned their annuities at the time when they retire. This principle appears to have been established for the Reserve military officer and, more recently, the retired Regular military officer, and for the retired Foreign Service Officer. With respect to retired military officers, a reservist can retain both his civilian salary and his entire annuity, and a Regular officer can retain his salary plus the first \$2,000 of his annuity and 50 percent of the balance thereof.

Section 111 also requires that when an annuitant is reemployed in Federal service that the employer notify the Director of Central Intelligence with all pertinent information. This is similar to the provision applicable to the Foreign Service retirement system (22 U.S.C.A. 1112).

Voluntary Contributions

Section 112 repeals the present authority relating to voluntary contribution.

Technical Amendments

Section 113 makes changes in references to title 5 of the U.S. Code that are contained in the Central Intelligence Agency Retirement Act to conform to the changes brought about by P.L. 89-554 which enacted title 5 of the United States Code into positive law.

## TITLE II - MISCELLANEOUS

### Federal Employees Pay Act

Section 201 clarifies the authority of the Director of Central Intelligence by specifying the exclusion of Agency officer and employees from the provisions of the Federal Employees Pay Act of 1945, as amended.

Civil Service Commission Regulations relating to premium pay (Federal Personnel Manual Supp. 990-2, at Book 550-2) issued under the authority of section 605 of the Federal Employees Pay Act of 1945, as amended, exclude officers and employees of the Central Intelligence Agency from coverage under the regulations.

This exclusion of Agency personnel from the Pay Act recognizes the pay-fixing authority granted to the Director of Central Intelligence in section 8(a) of the Central Intelligence Agency Act, as amended (50 U.S.C. 403j), and the specific exemption of the Agency's positions from the provisions of the Classification Act of 1949, as amended (5 U.S.C. 5102(a)(1)(vi)). The Agency has developed a salary administration program which adheres closely to the principles and standards of the Classification Act regarding the classification of positions, establishment of entry salary rates, and the grant of merit and quality step increases, and conforms generally to the principles and standards of the Pay Act regarding premium pay and hours of work. However, it has been necessary for the Agency to deviate somewhat from the specific practices required by the Act to accommodate peculiar problems inherent in its mission and functions.